

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

STEVEN CHRISTOPHER CRAIN,

Petitioner,

vs.

NEVADA PAROLE AND PROBATION,
et al.,

Respondents.

Case No. 2:14-cv-01056-GMN-NJK

ORDER

Before the court is the petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254.¹ The court has reviewed the petition, and the court will refer this action to the United States Court of Appeals for the Ninth Circuit because the petition is successive.

Petitioner challenges the validity of the judgment of conviction in State v. Crain, Case No. 00C166673, in the Eighth Judicial District Court of the State of Nevada. Petitioner was convicted of first-degree murder with the use of a deadly weapon. Petitioner challenged the same judgment of conviction in Crain v. Nevada Parole and Probation, Case No. 2:09-cv-01099-RLH-PAL. The court dismissed that action because it was untimely pursuant to 28 U.S.C. § 2244(d). Petitioner appealed that dismissal. Both this court and the Court of Appeals for the Ninth Circuit denied a certificate of appealability. Petitioner also challenged the same judgment of conviction in Crain v. State of Nevada, Case No. 2:11-cv-02014-ECR-VCF. The court dismissed that action because it was

¹The document refers erroneously to 28 U.S.C. § 2253.

1 untimely pursuant to 28 U.S.C. § 2244(d). Petitioner appealed, and the court of appeals dismissed
2 the appeal for failure to pay the filing fees.

3 “[D]ismissal of a section 2254 habeas petition for failure to comply with the statute of
4 limitations renders subsequent petitions second or successive for purposes of . . . 28 U.S.C. §
5 2244(b).” McNabb v. Yates, 576 F.3d 1028, 1030 (9th Cir. 2009). Petitioner must first obtain
6 authorization from the court of appeals before this court can consider his petition. 28 U.S.C.
7 § 2244(b)(3).

8 IT IS THEREFORE ORDERED that the clerk shall add Catherine Cortez Masto, Attorney
9 General for the State of Nevada, as counsel for respondents.

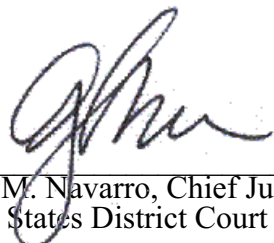
10 IT IS FURTHER ORDERED that the clerk shall electronically serve respondents with a
11 copy of the petition and a copy of this order. No response by respondents is necessary.

12 IT IS FURTHER ORDERED that, pursuant to Circuit Rule 22-3(a), the clerk of the court
13 shall refer this action to the United States Court of Appeals for the Ninth Circuit.

14 IT IS FURTHER ORDERED that the clerk of the court shall administratively close this
15 action.

16 DATED: September 22, 2014.

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Gloria M. Navarro, Chief Judge
United States District Court